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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,506	01/23/2004	Gerald W. Winsor	82182632	7228
22879	7590	09/28/2011		
HEWLETT-PACKARD COMPANY			EXAMINER	
Intellectual Property Administration			CLOUD, JOIYA M	
3404 E. Harmony Road			ART UNIT	
Mail Stop 35			PAPER NUMBER	
FORT COLLINS, CO 80528			2444	
			NOTIFICATION DATE	
			DELIVERY MODE	
			09/28/2011	
			ELECTRONIC	

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/763,506
Filing Date: January 23, 2004
Appellant(s): WINSOR, GERALD W.

Ashok K. Mannava (Reg. No. 45,301)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 04/25/2011 appealing from the Office action mailed 11/24/2010.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief is correct.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

NEW GROUND(S) OF REJECTION

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-24 and 33 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

As to exemplary claim 1, the claim is directed towards "A service delivery platform, comprising...a gateway...a mobile portal...a mobile server...an application server," which does not inherently mean that the claim is directed to a machine. Only if at least one of the claimed elements of the system is a physical part of a device can the system as claimed constitute part of a device or a combination of devices to be a machine within the meaning of 35 U.S.C. 101.

Given the broadest reasonable interpretation and lacking any controlling definition of the "service delivery platform" in the specification, one of ordinary skill in the art would reasonably interpret the claims to be software only and software per se is non statutory. Appellants are advised to add a computer processor coupled to a non transitory storage medium in order to provide at least one hardware element of the claimed system.

As to claim 33, claim 33 is drawn towards "a computer readable medium having instruction for causing a device to perform..." The broadest reasonable interpretation of this phrase includes non-transitory embodiments, such as memory elements (ROM, RAM) and memory media (CDs) as well as transitory embodiments, such as carrier waves encoded with the

software steps. However, transitory forms of signals are not statutory (*In re Nuijten*, 84 USPQ2d 1495). A claim that covers both statutory and non-statutory embodiments embraces subject matter that is improperly directed to non-statutory subject matter. Examiner suggests Appellant amend the instant claim to include a computer readable storage medium (e.g. memory), specifically stating “a non-transitory storage medium.”

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant’s statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2003/0078053 A1	ABTIN et al.	04-2003
2004/0259534 A1	CHAUDHARI et al.	12-2004
7,310,307	DAS et al.	12-2007

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the Appellant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the Appellant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2 are rejected under 35 U.S.C. 102(e) as being anticipated by Abtin et al (US Publication No. 2003/0078053 A1).

As per claim 1, Abtin teaches a service delivery platform, comprising: a gateway having connectivity to a communication network (**paragraph [0013] and Figure 1**); a mobile portal (**Figure 1, item 25-mobile portal**) having connectivity to the gateway (**paragraph [0013], gateway**); a mobile server accessible by the mobile portal (**Figure 1 and paragraphs [0013] and [0015]**); and an application server (**paragraphs [0013] and [0015] and Figure 1, item 50**) having a web services interface (**paragraphs [0013], where the access server 50 of Abtin provides access to a PLMN (not shown) using the WAP protocol by end user 45. The WAP gateway proxy 55 acts as an interconnect between the PLMN and an external network (i.e., the Internet 65) utilizing a protocol other than the WAP protocol such as an IP protocol. The mobile portal 25 provides an access point for the end user 45 to select particular services to be provided or not provided to the end user 45. The location privacy proxy 15 is**

located within secure equipment 20 having interfaces with the mobile portal 25) connecting the mobile portal to the mobile server, wherein the web services interface includes access to the mobile portal and to an associated database structure containing user profile data (paragraph [0013], LDAP Profile Database), wherein the web services interface can register user profile data for services with the mobile server (paragraphs [0013] and [0015], where the user profiles stored by the LDAP database for users to select services, Abtin discloses the LPP 15 uses end user profiles stored within the LDAP profile database 40 or responses received from an end user 45 through the access server 50, WAP gateway proxy 55 and the mobile portal 25 to determine if the user may be positioned. The LPP 15 provides a standardized interface between the LBS 30 and the positioning systems).

As per claim 2, Chaudhari teaches wherein the web services interface is discoverable and invokeable as a stand-alone web service (paragraph [0013], [0015], and [0018]).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Abtin** in view of **Chaudhari et al (US Patent No. 2004/0259534 A1)**.

As per claim 3, Abtin discloses the invention substantially as claimed.

However Abtin does not explicitly teach wherein the application server having the web services interface includes a set of business logic instructions to manage access and control of the user profile data.

Chaudhari teaches wherein the application server having the web services interface includes a set of business logic instructions to manage access and control of the user profile data (**Abstract and paragraph [0044]**).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Abtin's teachings to the teachings of Chaudhari for the purpose controlling network infrastructure and resources and security of user data (**paragraph [0051]**).

As per claim 4, Abtin-Chaudhari teaches wherein the application server having the web service interface uses a web services descriptor language (WSDL) document to register user profile data with the mobile server (**Chaudhari: paragraph [0040]**).

As per claim 5, Abtin-Chaudhari teaches wherein the WSDL document is automatically generated from a Java Integrated Development Environment (IDE) (**Chaudhari: paragraph [0040]**).

As per claim 6, Abtin-Chaudhari teaches wherein the set of business logic instructions can integrate with business rule processing engines external to the platform (**Chaudhari: paragraph [0049]**).

As per claim 7, Abtin-Chaudhari teaches, wherein the application server having the web services interface includes program instruction which can execute to access the mobile server using simple object access protocol (SOAP) (**Chaudhari: paragraph [0040]**).

As per claim 8, Abtin-Chaudhari teaches wherein the application server having the web services interface includes program instruction which can execute to access the mobile server using Java Messaging Service (JMS) (**Chaudhari: paragraph [0040]**).

As per claim 9, Abtin-Chaudhari teaches wherein the application server having the web services interface includes program instruction which can execute to access the mobile server using a messaging middleware application (**Abtin: paragraph [0020]**).

As per claim 10, Abtin-Chaudhari teaches wherein the application server having the web services interface includes program instruction which can execute to access the mobile server within a common object request broker architecture (CORBA) (**Chaudhari: paragraph [0045]**).

As per claim 11, Abtin-Chaudhari teaches wherein the application server having the web services interface includes a middle tier cache to hold retrieved data from the associated database structure (**Abtin: paragraph [0020]**).

As per claim 12, Abtin-Chaudhari teaches wherein the application server having the web services interface further includes program instructions to provide session management and to clear the middle tier cache (**Abtin: paragraphs [0017] and [0020]**).

As per claim 13, Abtin-Chaudhari teaches wherein the set of business logic instructions control retrieval, update, and deletion of the user profile data (**Chaudhari: paragraph [0118]-[0123]**).

As per claim 14, Abtin-Chaudhari teaches further including instructions to log and debug (**Abtin: paragraph [0015]**).

As per claim 15, Abtin-Chaudhari teaches wherein the instructions to log include instructions to: log updates to the associated database structure; log who performed updates; log when updates were performed; log what updates were implemented; log who made requests into the platform; log when requests were made; and log what information was requested (**paragraph [0013] and [0015]**).

As per claim 16, Abtin-Chaudhari teaches wherein the gateway connects the mobile portal to the communication network. (**paragraph [0013], where The WAP gateway proxy 55 acts as an interconnect between the PLMN and an external network (i.e., the Internet 65) utilizing a protocol other than the WAP protocol such as an IP protocol.**)

As per claim 17, Abtin-Chaudhari teaches wherein the mobile server includes a universal business registry of web services (**Abtin: paragraph [0017]**).

As per claim 18, Abtin-Chaudhari teaches wherein the application server having the web services interface and the associated database structure containing user profile data can be accessed directly by the gateway (**Abtin: paragraph [0013] and [0015]**).

As per claim 19, Abtin-Chaudhari teaches wherein the application server having the web services interface uses templates to define profile elements in the user profile data (**paragraph [0015]**).

As per claim 20, Abtin-Chaudhari teaches wherein the templates are used by program instructions to register the user profile data with the mobile server for application processing (**Abtin: paragraph [0013]**).

As per claim 21, Abtin-Chaudhari teaches wherein the profile elements are selected from the group of: a user ID; a group ID; a user name; a preferred language; a status; a first name; a last name; a last login timestamp; a street; a street number; a zip; a city; a country; a gender; a mobile subscription; a mobile subscriber ISDN; a current device location; and an email address (**Abtin: paragraph [0003]**).

As per claim 22, Abtin-Chaudhari teaches wherein the application server having the web services interface is accessible across multiple network applications (**Abtin: paragraph [0013]**).

As per claim 23, Abtin-Chaudhari teaches wherein the application server having the web service interface includes program instructions which can execute to register user profile data in the associated database with a business registry of the mobile server and with a registry on one or more third party servers (**Abtin: paragraph [0013] and [0015]**).

As per claims 24-31, claims 24-31 recite similar limitations as claims 1-23 and therefore are rejected using similar rationale.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the Appellant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the Appellant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 32-40 are rejected under 35 U.S.C. 102(e) as being anticipated by **Chaudhari et al.** (US Publication No. 2004/0259534 A1)

As per claim 32, Chaudhari teaches method for user profile service, comprising: collecting user profile data from multiple network sources in a localized database (**paragraphs [0041] [0043], [0046] and [0051], where the Meta Directory locally stores the user profile data**); providing business rules to an application server to manage access to the collected user profile data in the database (**paragraphs [0043] [0049], where policy rules and business rules are provided and determine**); and allowing different network service applications to access the

collected user profile data as determined by the business rules (**paragraphs [0041] [0043], [0046] and [0051]**).

As per claim 33, Chaudhari teaches a computer readable medium having instructions for causing a device to perform a method, comprising: collecting user profile data from multiple network sources in a localized database (**paragraphs [0041] [0043], [0046] and [0051]**); providing business rules to an application server to manage access to the collected user profile data in the database (**paragraphs [0043] [0049]**); and allowing different network service applications to access the collected user profile data as determined by the business rules (**paragraphs [0043] [0049]**).

As per claim 34, Chaudhari teaches mobile services delivery platform, comprising: an application server having a web services interface and accessible by a mobile network; means for storage and access of user profile data on a user profile service database in connection with the web service interface (**paragraph [0043], the Metadata Directory stores information about users in the Subscriber Profile**); and means for enabling applications and/or component parts of applications to access profile elements in the user profile data and be distributed over the mobile network in connection with the web service interface (**paragraph [0044] and [0049, policy and business rules enable and determine access to elements of user profile information]**); means for registering user profile data stored on the user profile service database with one or more third party databases (**paragraph [0060]**).

As per claim 35-38, Chaudhari teaches wherein the means for storage and access includes a set of computer executable instructions; wherein the means for enabling applications and/or

component parts of applications to access profile elements includes a set of computer executable instructions (**paragraph [0072]**); wherein the application server includes program instructions to deploy, develop, administer, and integrate user profile data with one or more network applications (**paragraph [0072]**; and wherein the application server includes program instructions to manage: user demographic information (**paragraph [0043]**, i.e. **gender, user age, address etc**); user privilege, access and rights information (**paragraph [0043]**, **policy rules**); and user service registration information (**paragraph [0043]**, i.e. **expiry of subscription**).

As per claim 39-40, Chaudhari teaches wherein a profile element in the user profile data indicates an interest in soccer and wherein a profile element in the user profile data indicates an interest in Chinese cuisine and a disinterest in Italian cuisine (**paragraph [0050]**).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 41-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chaudhari (US Publication No. 2004/0259534 A1) in view of Das et al. (US Patent No. 7,310,307 B1).

As per claim 41-42, Chaudhari discloses the invention substantially as claimed. However, Chaudhari does not explicitly teach wherein the application server is accessible by

wireless voice network and wherein the application server is accessible by a public wireless local area network (PwLAN)

Das teaches wherein the application server is accessible by a public wireless local area network (PwLAN) (col. 6, lines 43-54).

Accordingly, it would have been obvious to one of ordinary skill in the art to have modified the teachings of Chaudhari to the teachings of Das for the purpose of providing connectivity to the user (col. 6, lines 51-54).

(10) Response to Argument

A). Abtin fails to teach the features of claim 1, “an application server, comprising a processor, and having a web services interface connecting the mobile portal to the mobile server.” Appellant further argues that the access server 50 does not have any interface connecting the mobile portal 25 to the location privacy proxy 15

As to the above point A), Examiner respectfully disagrees. Examiner submits first, that no where does the instant claim language require a limiting definition of the web services interface. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Examiner notes that lacking any specific claim language defining *how* claimed structures of the instant claim 1 are arranged and further how the web services interface is connected, the broadest reasonable interpretation of one ordinary skill in the art would conclude that the web services interface is merely required to connect, but not required

to be connected in any particular arrangement. Secondly, an application server "having a web services interface" does not explicitly suggest where such interface is located. The claim requires that the "web services interface" connect the "mobile portal to the mobile server."

Given the access server 50 of Abtin provides access to a PLMN (not shown) using the WAP protocol by end user 45. The WAP gateway proxy 55 acts as an interconnect between the PLMN and an external network (i.e., the Internet 65) utilizing a protocol other than the WAP protocol such as an IP protocol. The mobile portal 25 provides an access point for the end user 45 to select particular services to be provided or not provided to the end user 45. The location privacy proxy 15 is located within secure equipment 20 having interfaces with the mobile portal 25, location based services (LBS) 30, gateway mobile positioning centers (GMPC) 35 and LDAP (Lightweight Directory Access Protocol) profile database 40, it is clear based on the above disclosure that an interface is used to enable the end user to access the Location Privacy Proxy and allow the devices to interact (see **paragraph [0013] or col. 2, lines 10-47 of the corresponding patent 7,054,648 B2**). See also claim 21 of Abtin's disclosure (publication). Therefore, Abtin clearly anticipates the claim language.

B) Claim 2 recites, "wherein the web services interface is discoverable and invokeable as a stand-alone web service." As such, in combination "with the independent claim 1, it is clear from claim 2 that the web services interface of the application server is a stand-alone web service."

As to the above point B), Examiner respectfully disagrees. Abtin clearly discloses in col. 2, lines 22-37, the mobile portal 25 provides an access point for the end user 45 to select particular services to be provided or not provided to the end user 45. The location privacy proxy 15 is located within secure equipment 20 having interfaces with the mobile portal 25, location

based services (LBS) 30, gateway mobile positioning centers (GMPC) 35 and LDAP (Lightweight Directory Access Protocol) profile database 40. The broadest reasonable interpretation of a stand-alone web service interface is an interface that can operate independently of the network, as shown by Figure 4, the interfaces to the LPP do not require connection to the network, as each web services interface may or may not be provided to the end user.

C) Abtin fails to teach or suggest “providing business rules to an application server, the business rules associated with accessing user profile data to make a user profile service database accessible across multiple network applications.”

As to the above argument C), Examiner respectfully disagrees. First Examiner notes that the instant claim does not require any specific definition of business rules, but rather broadly asserts that the business rules are applied to authorize a request. Abtin clearly discloses authorizing a request to the database where a user name and password are required to authorize access to the database according to the business agreement. (see paragraph [0060])

D) Chaudhari does not teach or suggest that the Meta Directory 203 is localized. As a result Chaudhari fails to teach or suggest, “collecting, by a processor, a given user’s user profile data from multiple network sources in a localized database,”

As to the above point D), Examiner respectfully disagrees. Examiner notes that the instant claim fails to explicitly define a localized database beyond the broadest reasonable interpretation. Examiner has interpreted localized database to be a database which can be

accessed locally. Chaudhari clearly discloses the Meta Directory whereby user profiles are stored and can be accessed locally. See paragraph [0041]-[0046] and [0051].

E) Therefore, contrary to the assertion by the Examiner, the third party 103 is not the same as the “application server having a web services interface and accessible by a mobile network,” as recited in claim 34.

As to the above point E), Examiner respectfully disagrees. Examiner notes that the third party is not relied upon to anticipate the application server as claimed in claim 34. However, Chaudhari teaches the mobile service provider as an application server via which services are provided (see paragraph [0060]).

F) Claims 41-42 “are not obvious in view of the combined disclosures contained in Chaudhari and Das, as proposed by the Examiner.”

In response to applicant’s argument that there is no teaching, suggestion, or motivation to combine the references, the examiner recognizes that obviousness may be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988), *In re Jones*, 958 F.2d 347, 21 USPQ2d 1385 (Fed. Cir. 1992), and *KSR International Co. v. Teleflex, Inc.*, 550 U.S. 398, 82 USPQ2d 1385 (2007). In this case, Applicant appears to argue motivation, however Applicant’s fail to indicate how such motivation is deficient. Furthermore, Das is relied upon to *explicitly* teach a accessing a server via a public wireless local area network (PwLAN). See col. 6, lines 43-54.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

This examiner's answer contains a new ground of rejection set forth in section (9) above. Accordingly, appellant must within **TWO MONTHS** from the date of this answer exercise one of the following two options to avoid *sua sponte* **dismissal of the appeal** as to the claims subject to the new ground of rejection:

(1) **Reopen prosecution.** Request that prosecution be reopened before the primary examiner by filing a reply under 37 CFR 1.111 with or without amendment, affidavit or other evidence. Any amendment, affidavit or other evidence must be relevant to the new grounds of rejection. A request that complies with 37 CFR 41.39(b)(1) will be entered and considered. Any request that prosecution be reopened will be treated as a request to withdraw the appeal.

(2) **Maintain appeal.** Request that the appeal be maintained by filing a reply brief as set forth in 37 CFR 41.41. Such a reply brief must address each new ground of rejection as set forth in 37 CFR 41.37(c)(1)(vii) and should be in compliance with the other requirements of 37 CFR 41.37(c). If a reply brief filed pursuant to 37 CFR 41.39(b)(2) is accompanied by any amendment, affidavit or other evidence, it shall be treated as a request that prosecution be reopened before the primary examiner under 37 CFR 41.39(b)(1).

Extensions of time under 37 CFR 1.136(a) are not applicable to the TWO MONTH time period set forth above. See 37 CFR 1.136(b) for extensions of time to reply for patent

applications and 37 CFR 1.550(c) for extensions of time to reply for ex parte reexamination proceedings.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Joiya M. Cloud
June 12, 2011

Conferees:

/Peling A Shaw/
Primary Examiner, Art Unit 2444

/Peter-Anthony Pappas/
Supervisory Patent Examiner, Art Unit 2444

A Technology Center Director or designee must personally approve the new ground(s) of rejection set forth in section (9) above by signing below:

/N. Le/
Director, Technology Center 2400